

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID GOULD, et al.,

Defendants.

C16-1041 TSZ

ORDER

THIS MATTER comes before the Court on the United States' motion for summary judgment against David Gould and for default judgment against Brookline Properties, Financial Concepts, Ltd., and Goldstar Enterprises, Inc., docket no. 177. Also pending before the Court is the United States and Jane Polinder's stipulated motion for entry of judgment against Jane Polinder, docket no. 176. Having reviewed all papers filed in support of, and in opposition to, the motions, the Court enters the following Order.

Background

This case arises out of the efforts of the United States Internal Revenue Service ("IRS") to collect taxes owed by defendants David Gould and Jane Polinder for tax years 2000 through 2004. The United States now moves for summary judgment against Gould, seeking for its tax liens against Gould to be reduced to judgment and for the Court to

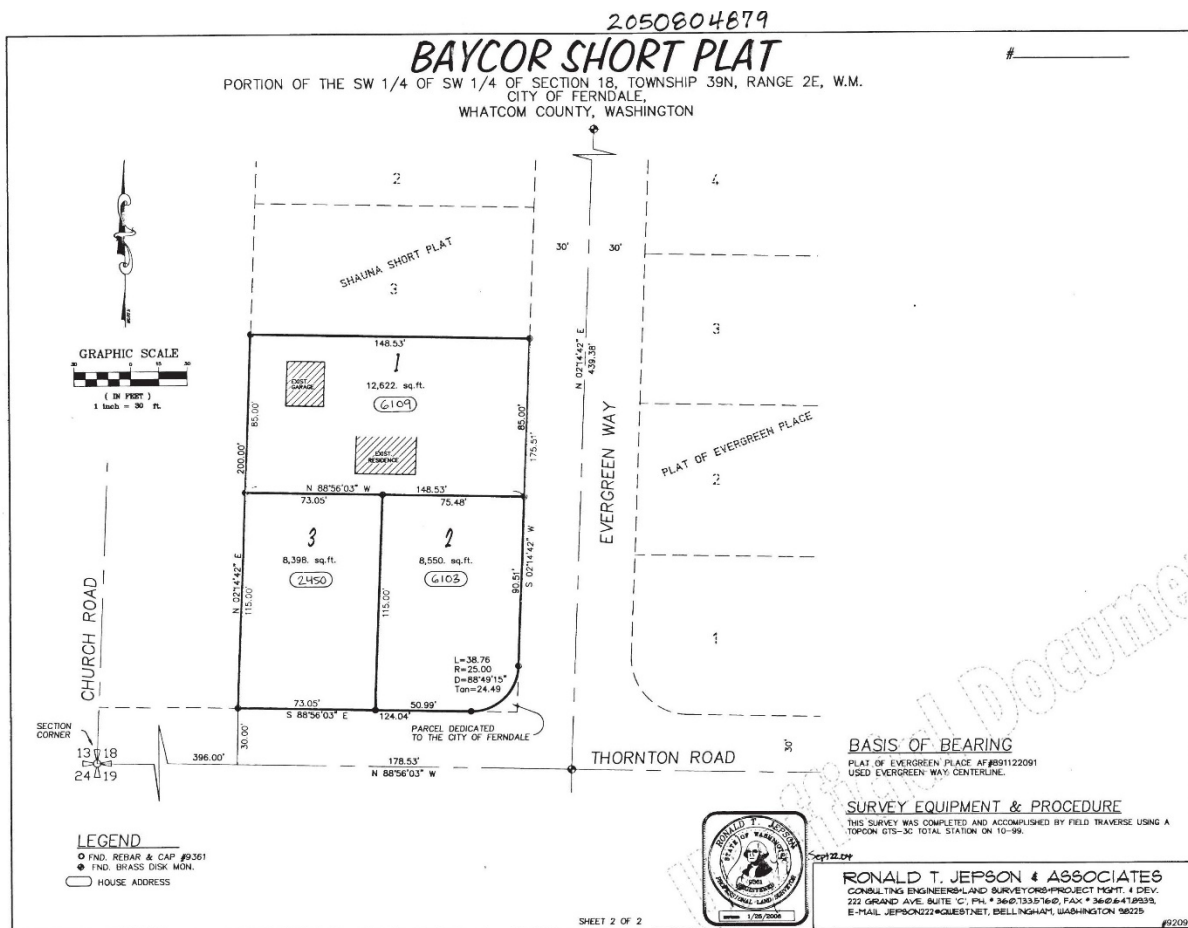
1 order that the tax liens be foreclosed against 6109 Evergreen Way, Ferndale, Washington,
2 98248 (the “Subject Property”).¹

3 **A. David Gould and his Sources of Income**

4 In September 1991, David Gould purchased property in Whatcom County,
5 Washington (the “Evergreen Way property”) with the address of 2450 Thornton Road.
6 2450 Thornton Rd. Sept. 1991 Deed, Ex. 1 (docket no. 177-13); 2450 Thornton Rd. Sept.
7 1991 Real Estate Excise Tax, Ex. 2 (docket no. 177-14); Gould Dep. at 27:3–29:1
8 (docket no. 177-9). Gould took out a \$110,000 loan from U.S. Bank for this purchase.
9 2450 Thornton Rd. Sept. 1991 Deed of Trust, Ex. 3 (docket no. 177-15). Through a
10 series of transactions in the mid-1990s, the Evergreen Way property was subdivided into
11 a north parcel and a south parcel, and the north parcel was in turn further subdivided into
12 three lots: 6115 Evergreen Way, 6121 Evergreen Way, and 6125 Evergreen Way.
13 Dec. 1992 Deed, Ex. 4 (docket no. 177-16); Special Power of Attorney, Ex. 5 (docket no.
14 177-17); Dec. 1994 Deed, Ex. 6 (docket no. 177-18). In 2005, the south parcel was also
15 split into three lots – 6109 Evergreen Way, 6103 Evergreen Way, and 2450 Thornton
16 Road – as shown in the following image:

17
18
19
20 ¹ 6109 Evergreen Way, Ferndale, Washington, 98248 is more particularly described as:

21 Lot 1, as delineated on Baycor Short Plat, according to the plat thereof, recorded August
22 22, 2005, under the Auditor’s File No. 2050804879, records of Whatcom County,
Washington; situate in Whatcom County, Washington; Assessor’s Tax Parcel
23 No. 3902180470220000.



Baycor Short Plat, Ex. 43 (docket no. 177-55).

In February 1994, Jane Polinder, along with her parents Gerald and Shirley Polinder, purchased a duplex and adjacent lot located on St. Paul Street, in Bellingham, Washington ("the St. Paul property") for \$195,000. Feb. 1994 Deed, Ex. 7 (docket no. 177-19); 1321 St. Paul Street Assessor History, Ex. 8 (docket no. 177-20); 1327 St. Paul Street Assessor History, Ex. 9 (docket no. 177-21); Polinder Dep. at 90:1-16, (docket no. 177-10). The St. Paul property was paid for primarily with a \$175,500 loan from U.S. Bank. Feb. 1994 Deed of Trust, Ex. 10 (docket no. 177-22); Polinder Dep. at 90:22-91:12 (docket no. 177-10).

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1 On April 29, 1995, David Gould married Jane Polinder. Marriage Certificate,
2 Ex. 11 (docket no. 177-23); Gould Dep. at 75:22–24 (docket no. 177-9); Polinder Dep.
3 at 40:2–5 (docket no. 177-10). In June 1997, Shirley, Gerald, and Jane Polinder
4 conveyed the St. Paul property to Director of Excalibur “for and in consideration of a
5 mere change in identity.” June 1997 Deed, Ex. 14 (docket no. 177-26); Polinder Dep.
6 92:2–93:16 (docket no. 177-10). Director of Excalibur was “a private religious
7 corporation sole” created by Gould in 1996, with himself serving as director and Gerald
8 Polinder as secretary. Director of Excalibur Articles of Incorporation at 4, Ex. 13 (docket
9 no. 177-25); Gould Dep. 46:6–20 (docket no. 177-9). The Director of Excalibur’s
10 Articles of Incorporation noted that “IT IS UNLAWFUL FOR THE CHURCH OF THIS
11 CHARTER TO BE INCORPORATED UNDER THE LAWS OF ANY SECULAR
12 STATE ON EARTH” and that the Director of Excalibur would be doing business as
13 “Baycor Development.” Director of Excalibur Articles of Incorporation at 1, Ex. 13
14 (docket no. 177-25). When this transfer happened, Gould and Jane Polinder were living
15 in one of the St. Paul duplex units and renting out the other. Polinder Dep. at 94:9–22,
16 101:9–12 (docket no. 177-10). And, notwithstanding the transfer from the Polinders to
17 Director of Excalibur, the U.S. Bank mortgage for the St. Paul property remained in the
18 Polinders’ names. *See* Mar. 2003 Deed of Reconveyance, Ex. 15 (docket no. 177-27).

19 In approximately May of 1998, Gould set up the entity Brookline Properties as a
20 “Common Law Unincorporated Business Organization” with Patrick Shannon, one of
21 Gould’s business associates, serving as “THE GENERAL TRUST MANAGER of
22 BROOKLINE PROPETIES [sic].” “Of Brookline Propeties [sic],” Ex. 17 (docket

no. 177-29); Gould Dep. 18:1–21:9 (docket no 177-9); Shannon Dep. 26:18–30:25 (docket no. 177-12). On the same day that Brookline Properties was formed Gould quitclaimed to it the Evergreen Way property “for and in consideration of CAPITAL UNITY OF INDETERMINABLE VALUE.” May 1998 Deed at 1, Ex. 18 (docket no. 177-30). The U.S. Bank mortgage, however, remained in Gould’s name. *See* Aug. 1998 Corp. Assignment, Ex. 19 (docket no. 177-31); PNC Evergreen Way Loan History, Ex. 20 (docket no. 177-32).

In 2000, Gould and Polinder moved to Costa Rica. Polinder Dep. 24:17–20 (docket no. 177-10); Gould Dep. 95:16–23, 113:24–114:1 (docket no. 177-9). While in Costa Rica, Gould and Polinder rented out the properties they owned, including 1323 St. Paul Street and the Evergreen Way property. 2000-2004 Itemized Deposits, Ex. 21 (docket no. 177-33); Polinder Dep. at 88:22–89:16 (docket no. 177-10); Gould Dep. at 64:9–15 (docket no. 177-9). The rental income was deposited in the Director of Excalibur/Baycor Development’s account with U.S. Bank, 2000-2004 Itemized Deposits, Ex. 21 (docket no. 177-33), over which Gould had signature authority, *see* U.S. Bank Check, Ex. 22 (docket no. 177-34).

The rental income was not Gould’s only source of income from 2000 to 2004. For example, Gould derived income from an interest accruing Salomon Smith Barney bank account opened by Polinder with Gould’s mother, Lorraine Blizzard, in 2001. *See* Salomon Smith Barney Account Application, Ex. 23 (docket no. 177-35); Polinder Dep. at 114:5–18 (docket no. 177-10). Polinder opened another interest accruing account with a Costa Rican bank, Banco Cuscatlán, in 2003, from which Gould derived income. *See*

1 Banco Cuscatlán Account Statement, Ex. 27 (docket no. 177-39); Gould Dep. at 65:3–6,
2 119:8–24 (docket no. 177-9); Polinder Dep. at 26:6–18, 113:17–18 (docket no. 177-10).

3 In 2002, Gould derived income from \$5,838.39 in credit card debt charged off by
4 Polinder. *See* First USA Visa Account Statement, Ex. 24 (docket no. 177-36); Capital
5 One MasterCard Application Information Sheet, Ex. 25 (docket no. 177-37). And in
6 2003 and 2004, Gould derived income from the sale of the following properties:

- 7 - 1323 St. Paul Street, sold in February 2003 for \$188,500, Feb. 2003 Deed,
8 Ex. 29 (docket no. 177-41),
- 9 - 6121 Evergreen Way, sold in March 2003 for \$42,500, 6121 Evergreen Way
10 Deed, Ex. 32 (docket no. 177-44); Settlement Statement, Ex. 33 (docket
11 no. 177-45); Substitute Form 1099S, Ex. 34 (docket no. 177-46),
- 12 - 6125 Evergreen Way, sold in March 2003 for \$42,500, 6125 Evergreen Way
13 Assessor History, Ex. 30 (docket no. 177-42); 6125 Evergreen Way Deed,
14 Ex. 31 (docket no. 177-43); Settlement Statement, Ex. 33 (docket no. 177-45);
15 Substitute Form 1099S, Ex. 34 (docket no. 177-46),
- 16 - 6115 Evergreen Way, sold in March 2003 for \$55,000, 6115 Evergreen Way
17 Deed, Ex. 36 (docket no. 177-48); 6115 Evergreen Way Assessor History,
18 Ex. 37 (docket no. 177-49),
- 19 - 15 Sigma Circle, Bellingham, WA, sold in November 2004 for \$12,368.30,
20 Sigma Circle Balance Sheet, Ex. 40 (docket no. 177-52).

21 Gould used the proceeds from the sales of 6121 and 6125 Evergreen Way to pay off the
22 mortgage, that was still in his name, on the Evergreen Way property. *See* Settlement
23 Statement, Ex. 33 (docket no. 177-45); Evergreen Way Loan Payoff, Ex. 35 (docket no.
177-47). The proceeds from the sale of 6115 Evergreen Way were deposited into an
account owned by Director of Excalibur. *See* 2003 Property Sales Checks, Ex. 38
(docket no. 177-50); U.S. Bank Statements, Ex. 39 (docket no. 177-51). Director of

1 Excalibur, less than a month after that \$55,000 deposit, made two transfers totaling
2 \$55,000 to Polinder's Banco Cuscatlán account. *See id.*; Banco Cuscatlán Statement,
3 Ex. 27 (docket no. 177-39); Gould Dep. 69:18–70:8 (docket no. 177-9). Finally, Gould
4 derived income from the salary he received from his employer. *See* Peoples Bank
5 Personal Statement, Ex. 26 (docket no. 177-38); Gould Dep. at 54:14–56:8 (docket
6 no. 177-9). Despite his many sources of income for 2000 through 2004, Gould did not
7 timely file tax returns for those years. Gould Dep. at 44:3–13 (docket no. 177-9).

8 Gould and Polinder returned from Costa Rica in 2003 and began living in a house
9 on the southern half of the Evergreen Way property. Gould Dep. at 33:10–25 (docket no.
10 177-9); Polinder Dep. 24:17–25:4 (docket no. 177-10). Although the Evergreen Way
11 property was titled to Brookline Properties at this time, Gould paid for utilities and other
12 expenses for the property using a Director of Excalibur account. *See* Verizon Check,
13 Ex. 41 (docket no. 177-53); Checks Written from 2000–2004, Ex. 42 (docket no. 177-
14 54). After the south lot of the Evergreen Way property was divided in 2005, *see* Baycor
15 Short Plat, Ex. 43 (docket no. 177-55), Gould and Polinder continued to reside on the
16 6109 Evergreen Way lot, *see* Gould Dep. at 33:21–34:10 (docket no. 177-9); Polinder
17 Dep. at 24:23 –25:4 (docket no. 177-10). The other two lots, 6103 Evergreen Way and
18 2450 Thornton Road, were deeded to Goldstar Enterprises, Inc., a construction company,
19 in 2006.² Mar. 2006 Deed, Ex. 44 (docket no. 177-56).

21 ² Because the transfer of the south lot of the Evergreen Way property from Gould to Brookline Properties
22 was fraudulent, *see infra*, the Baycor Plat subdivision of the south parcel of the Evergreen Way property
and the subsequent transfer of 6103 Evergreen Way and 2450 Thornton Road from Brookline Properties

Gould only resided at the Subject Property until 2011. That year, Polinder obtained a protective order against Gould, Polinder Dep. at 64:13–65:17 (docket no. 177-10), and filed for divorce, *id.* at 65:22–66:10; Gould Dep. at 34:3–12 (docket no. 177-9). In the divorce proceedings, the state court found Gould and Polinder’s marriage to be valid and awarded Polinder child support.³ *See* Final Order, *In re Marriage Polinder & Gould*, No. 11-3-00145-8 (Wash. Super. Ct. Feb. 24, 2014), Ex. 58 (docket no. 177-70). Gould and Polinder’s marriage was formally dissolved by the state court on February 24, 2014. *See* Decree of Dissolution, *In re Marriage of Polinder & Gould*, No. 11-3-00145-8 (Wash. Super. Ct. Feb. 24, 2014), Ex. 60 (docket no. 177-72).

Once Polinder obtained the protective order, Gould moved out of the Subject Property. *See* Gould Dep. at 34:3–12 (docket no. 177-9). Polinder, however, remained at the property along with her and Gould’s children. Polinder was supposedly renting the Subject Property from Brookline Properties but has never written a check for rent to Brookline Properties. *See* Decree of Dissolution at USA01566, *In re Marriage of*

to Goldstar Enterprises, Inc. are both invalid. The Court, however, takes judicial notice of a deed indicating that both 6103 Evergreen Way and 2450 Thornton Road were subsequently sold for value to third parties who are not joined or named as defendants in this case. *See* Statutory Warranty Deed, recorded in Whatcom County, WA on June 30, 2006, at Auditor’s File No. 2060605427; *see also* Fed. R. Evid. 201(b)(2); *Grant v. Aurora Loan Servs., Inc.*, 736 F. Supp. 2d 1257, 1263–64 (C.D. Cal. 2010) (collecting cases noting that courts may take judicial notice of documents recorded with a county recorder’s office). Additionally, the United States has not sought any relief in relation to 6103 Evergreen Way and 2450 Thornton Road. *See* Am. Compl. (docket no. 40); Mot. (docket no. 177). Accordingly, nothing in this Order shall be construed to affect any interests held by Goldstar Enterprises, Inc. in 6103 Evergreen Way and 2450 Thornton Road, or subsequent bona fide purchasers of those properties.

³ Gould failed to pay this child support and the State of Washington Department of Social and Health Services (“DSHS”) recorded a lien against Gould for past-due child support. *See* DSHS Lien, Ex. 59 (docket no. 177-71).

1 *Polinder & Gould*, No. 11-3-00145-8 (Wash. Super. Ct. Feb. 24, 2014), Ex. 60 (docket
2 no. 177-72); *Polinder Dep.* at 68:12–69:11 (docket no. 177-10). Additionally, as of
3 February 2017, Gould remained on the property’s gas bill alongside Polinder, Utility
4 Bills at JP00270, Ex. 61 (docket no. 177-73), and the remaining utility bills were only in
5 Polinder’s name, *id.* at JP00271–78.

6 **B. The IRS’s Efforts to Collect Taxes Owed by Gould**

7 Gould’s failure to file tax returns did not go unnoticed and, in January 2004,
8 Gould was contacted by the IRS about his missing returns. Jan. 2004 IRS Letter, Ex. 45
9 (docket no. 177-57). Gould responded that he was not subject to federal tax laws. *See*
10 Jan. 2004 Gould Letter at USA10035, Ex. 46 (docket no. 177-58). On August 13, 2004,
11 the IRS served a summons on Gould seeking documents related to his income from 2000
12 through 2004. IRS Summons, Ex. 47 (docket no. 177-59). No documents were produced
13 by Gould and the United States was forced to obtain an enforcement order. *See Order,*
14 *United States v. Gould*, No. 2:06-cv-00032 (W.D. Wash. Mar. 6, 2006), Ex. 48 (docket
15 no. 177-60).

16 Subsequently, Gould and Polinder were questioned by IRS Revenue Agent Evelyn
17 Stone on April 26, 2006. *See Sworn Statement*, Ex. 49 (docket no. 177-61). Gould, as
18 well as Polinder, invoked their Fifth Amendment right against self-incrimination in
19 response to most of Agent Stone’s questions, *see id.* at 8–107, forcing Agent Stone to rely
20 on public records and third-party documents to reconstruct the couple’s community
21 income.

1 Stone determined Gould's income was: \$23,499.00 for 2000, \$12,906.00 for 2001,
2 \$46,836.00 for 2002, \$226,261.00 for 2003, and \$16,554.00.00 for 2004. Notice of
3 Deficiency at USA00357, Ex. B (docket no. 177-3). Gould's income tax deficiencies,
4 after applicable deductions and credits, were: \$8,089.00 for 2000, \$4,281.00 for 2001,
5 \$22,487.00 for 2002, \$44,112.40 for 2003, and \$7,608.00 for 2004, for a total tax
6 deficiency of \$86,577.40. *Id.* Stone also determined that Gould was liable for statutory
7 penalties under 26 U.S.C. §§ 6651(a)(1), 6651(a)(2), and 6654 and interest. Notice of
8 Deficiency at USA00357, Ex. B (docket no. 177-3). The IRS, on September 22, 2008,
9 issued a Notice of Deficiency to Gould for his federal income tax liabilities for 2000
10 through 2004. Notice of Deficiency at USA00351, Ex. B (docket no. 177-3); Davis Decl.
11 at ¶ 7 (docket no. 177-1). Gould responded with a 41-page-letter disputing the Notice but
12 took no other actions in response to the Notice. *See* Oct. 2008 Gould Letter, Ex. 50
13 (docket no. 177-62).

14 Based on the Notice of Deficiency, on February 16, 2009, the IRS assessed
15 Gould's tax liabilities for 2000 through 2004. Davis Decl. at ¶ 8 (docket no. 177-1);
16 Forms 4340, Ex. 53 (docket no. 177-65). Gould was informed on September 1, 2009,
17 that the IRS had filed a Notice of Federal Tax Lien ("NFTL") and that he had the right to
18 request a Collection Due Process ("CDP") hearing. NFTL Letter, Ex. 54 (docket
19 no. 177-66); Gould NFTL, Ex. C (docket no. 177-4); Davis Decl. at ¶ 9 (docket no. 177-
20 1). Gould requested such a hearing, Gould CDP Hearing Requests, Ex. 55 (docket no.
21 177-67), but his request was denied by the IRS as frivolous, Dec. 2009 IRS Letter, Ex. 56
22 (docket no. 177-68). Gould never amended his CDP hearing request, and the IRS

1 disregarded it under 26 U.S.C. § 6330(g). Jan. 2010 IRS Letter, Ex. 57 (docket no. 177-
2 69). On April 18, 2013, the IRS recorded an NFTL against Brookline Properties as
3 Gould's nominee for his tax liabilities for 2000 through 2004. Nominee NFTL, Ex. D
4 (docket no. 177-5). The IRS refiled both the NFTLs against Gould and against Brookline
5 Properties as Gould's nominee on April 10, 2018. Refiled NFTLs, Ex. E (docket
6 no. 177-6).

7 This case was first filed on July 6, 2016. Compl. (docket no. 1). More than a year
8 later, Gould filed Forms 1040 for tax years 2000-2004. Late Filed 1040s, Ex. 62 (177-
9 74). These returns, which were generated at least thirteen years after the relevant tax
10 years and more than eight years after the United States first assessed taxes for those years
11 against Gould, were prepared by Gould's accountant based solely on a two-page email he
12 received from Gould and Gould's estimates of his income for those years. Sept. 2017
13 Gould Email, Ex. 63 (docket no. 177-75); Burris Dep. at 23:6–26:2, 40:10–42:9,
14 44:12–53:15 (docket no. 177-11).

15 The United States amended its complaint and, pursuant to 26 U.S.C. § 7403(b),
16 named Brookline Properties, the Whatcom County Treasurer, DSHS, Financial Concepts,
17 and Goldstar Enterprises as defendants because they might claim an interest in the
18 Subject Property. Because Brookline Properties, Financial Concepts, and Goldstar
19 Enterprises failed to appear after numerous attempts by the United States to serve them,
20 the Court entered default against those entities. Minute Order (docket no. 113); *see also*
21 Mot. for Default (docket no. 109). The United States has stipulated as to lien priority
22
23

1 with the remaining third parties: the Whatcom County Treasurer and DSHS. *See* Order
2 (docket no. 25); Order (docket no. 129).

3 In its amended complaint, the United States originally sought to collect
4 \$212,243.94, as of June 30, 2015, plus interest and other statutory additions, for Gould's
5 unpaid federal tax liabilities. Am. Compl. at 10 (docket no. 40). Based on evidence
6 obtained during discovery, the United States recalculated the amount of taxes owed by
7 Gould. *See* Beard Decl. at ¶¶ 3–4 (docket no. 177-7); Form 4549A, Ex. F (docket
8 no. 177-8). Gould's recalculated tax liability was reduced to \$56,610 from his original
9 tax liability of \$86,577.40. *Compare* Form 4549A, Ex. F (docket no. 177-8), *with* Notice
10 of Deficiency USA00351, Ex. B (docket no. 177-3). Based on Gould's recalculated tax
11 liability, and inclusive of penalties computed through February 14, 2024, and interest
12 computed to March 15, 2024, the United States now seeks to collect \$212,109.93 from
13 Gould for his unpaid 2000 through 2004 income taxes. Beard Decl. at ¶¶ 17–21 (docket
14 no. 177-7).

15 **Discussion**

16 **A. Motion for Default Judgment Against Defendants Brookline Properties,** 17 **Financial Concepts, Ltd., and Goldstar Enterprises, Inc.**

18 The United States moves for the entry of default judgment against Defendants
19 Brookline Properties, Financial Concepts, Ltd., and Goldstar Enterprises, Inc. The Court
20 previously entered default against Brookline Properties, Financial Concepts, Ltd., and
21 Goldstar Enterprises, Inc., Minute Order (docket no. 113), and, therefore, has authority to
22 enter default judgment against those entities pursuant to Federal Rule of Civil

1 Procedure 55. Accordingly, the United States' motion for entry of default judgment
2 against Brookline Properties, Financial Concepts, Ltd., and Goldstar Enterprises, Inc. is
3 GRANTED. As a result of default judgment being granted against these entities:

- 4 - any interest held by Brookline Properties in the Subject Property, more
5 properly described as:

6 Lot 1, as delineated on Baycor Short Plat, according to the
7 plat thereof, recorded August 22, 2005, under the Auditor's
8 File No. 2050804879, records of Whatcom County,
Washington; situate in Whatcom County, Washington;
Assessor's Tax Parcel No. 3902180470220000

9 is hereby extinguished;

- 10 - Financial Concepts, Ltd.'s "Affidavit and Memorandum of Security
11 Agreement" and "Affidavit of Obligation," *see* Ex. 51 (docket no. 177-63),
recorded on May 1, 2009, against:

12 Lot 1 BAYCOR SHORT PLAT AS RECORDED UNDER
13 AUDITOR'S FILE NUMBER 2050804879 MORE
COMMONLY KNOWN AS 6109 EVERGREEN WAY,
14 FERNDAL, WASHINGTON 98248

15 and recorded at Auditor's File Number 2090500044 (Affidavit and
16 Memorandum of Security Agreement") and Auditor's File Number
2090500045 ("Affidavit of Obligation") are hereby declared void and
unenforceable;

- 17 - any interest held by Goldstar Enterprises, Inc. in the Subject Property, more
18 properly described as:

19 Lot 1, as delineated on Baycor Short Plat, according to the
20 plat thereof, recorded August 22, 2005, under the Auditor's
21 File No. 2050804879, records of Whatcom County,
22

Washington; situate in Whatcom County, Washington;
Assessor's Tax Parcel No. 3902180470220000

is hereby extinguished.⁴

B. Summary Judgment Standard

The Court shall grant summary judgment if no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a).

The moving party bears the initial burden of demonstrating the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). A fact is material if it might affect the outcome of the suit under the governing law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). To survive a motion for summary judgment, the adverse party must present affirmative evidence, which “is to be believed” and from which all “justifiable inferences” are to be favorably drawn. *Id.* at 255, 257. When the record, however, taken as a whole, could not lead a rational trier of fact to find for the non-moving party, summary judgment is warranted. *See Beard v. Banks*, 548 U.S. 521, 529 (2006) (“Rule 56(c) ‘mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party’s case, and on which that party will bear the burden of proof at trial.’” (quoting *Celotex*, 477 U.S. at 322)).

⁴ Nothing in this Order affects any interests held by Goldstar Enterprises, Inc. or its successors or assigns in 6103 Evergreen Way and 2450 Thornton Road. *See supra* n.2.

1 **C. Judgment Against Gould for his Tax Liabilities**

2 The Court is empowered to reduce outstanding federal tax liabilities to judgment
3 “as may be necessary or appropriate for the enforcement of the internal revenue laws.”
4 26 U.S.C. § 7402(a). In such an enforcement action, the United States bears the initial
5 burden of proof. *Palmer v. I.R.S.*, 116 F.3d 1309, 1312 (9th Cir. 1997). This burden of
6 proof can be met merely by the introduction of an assessment of tax due because such an
7 assessment is generally entitled to a presumption of correctness. *United States v.*
8 *Stonehill*, 702 F.2d 1288, 1293 (9th Cir. 1983) (citations omitted). For cases involving
9 unreported income, the presumption of correctness arises so long as the assessment of tax
10 due “is supported by a minimal evidentiary foundation.” *Id.* (citation omitted); *United*
11 *States v. Kraus*, C16-5449, 2018 WL 1610225, at *4 (W.D. Wash. Apr. 3, 2018). If the
12 assessment is supported by a minimal evidentiary foundation, the taxpayer can rebut the
13 presumption of correctness by showing by a preponderance of the evidence that the
14 assessment was arbitrary or erroneous. *Stonehill*, 702 F.2d at 1294; *Keogh v. Comm’r*,
15 713 F.2d 496, 501 (9th Cir. 1983); *Kraus*, 2018 WL 1610225, at *4.

16 The United States has supported its assessment of tax due with the requisite
17 evidentiary foundation and Gould has failed to introduce evidence sufficient to rebut the
18 resulting presumption of correctness. A presumption of correctness arises because the
19 United States has submitted Forms 4340 showing the dates and the amounts of
20 assessments against Gould for 2000 through 2004, as well as the Notice of Deficiency for
21 these assessments. *See* Forms 4340, Ex. 53 (docket no. 177-65); Notice of Deficiency,
22 Ex. B (docket no. 177-3). These assessments were based on bank and credit card records,

1 which the United States has submitted to the Court. *See* Substitute Returns at
2 USA09655–63, USA09669, Ex. A (docket no. 177-2); Salomon Smith Barney Account
3 Application at USA06162, Ex. 23 (docket no. 177-35); First USA Visa Account
4 Statement, Ex. 24 (docket no. 177-36); Capital One MasterCard Application Information
5 Sheet, Ex. 25 (docket no. 177-37), Banco Cuscatlán Account Statement, Ex. 27 (docket
6 no. 177-39). As to the sales of the property, any capital gains were determined based on
7 records from the County Assessor’s office. Some of the mortgage interest deductions
8 allowed to Gould in the recalculation of his tax liability were based on statistical analysis.
9 *See* Beard Decl. at ¶ 7 (docket no. 177-7). Such analysis, however, is appropriate
10 evidence when, as here, incomplete records are provided to the IRS. *See Palmer*,
11 116 F.3d at 1312. And to the extent that the United States determined Polinder and
12 Gould’s income on a community property basis, half of that income is properly attributed
13 to Gould under Washington’s community property law. *See* RCW 26.16.030.

14 In an attempt to rebut the United States’ evidence, Gould has filed a 12-page
15 declaration. *See* docket no. 180-1. At best, Gould’s declaration is conclusory and self-
16 serving, doing nothing more than identifying facts that Gould “objects” to or “disputes,”
17 but offering no new facts to support Gould’s positions. “A conclusory, self-serving
18 affidavit, lacking detailed facts and any supporting evidence, is insufficient to create a
19 genuine issue of material fact.” *FTC v. Publ’g Clearing House, Inc.*, 104 F.3d 1168,
20 1171 (9th Cir. 1997) (citations omitted). At worst, Gould’s declaration is directly
21 contradicted by other evidence in the record. For example, Gould states in his declaration
22 that he and Polinder were never married, *see* Gould Decl. at ¶¶ 10, 17 (docket no. 180-1),

1 despite his representations to the contrary during his oral examination before the IRS and
2 during his deposition, *see infra*. Similarly, in his declaration, Gould stated “that during
3 the years 2000 to 2004 [he] did not receive any salary whatsoever, whether paid or
4 deferred,” docket no. 180-1 at ¶¶ 15, 17, yet at his deposition he testified to receiving an
5 “income” from “an overseas company” while he was in Costa Rica from 2000 through
6 2003, Gould Dep. at 54:14–56:8 (docket no. 177-9). Further contradicting his
7 declaration, on April 25, 2002, Gould signed a personal statement for Peoples Bank
8 identifying Analistude Capital as his employer and his salary as \$75,000. Peoples Bank
9 Personal Statement, Ex. 26 (docket no. 177-38). Gould also admitted to working for
10 Analistude Capital during his time in Costa Rica. Gould Dep. at 58:18–59:23 (docket no.
11 177-9). Gould “cannot create an issue of fact by an affidavit contradicting his prior
12 deposition testimony.” *Kennedy v. Allied Mut. Ins.*, 952 F.2d 262, 266 (9th Cir. 1991)
13 (citations omitted). Simply put, Gould has not put forth facts sufficient to show by a
14 preponderance of the evidence that the United States’ assessment of tax due was arbitrary
15 or erroneous.

16 In addition to his conclusory declaration, Gould offers numerous legal arguments
17 for why the United States’ tax calculations should be disregarded. None of Gould’s
18 arguments are persuasive. Gould first argues that the United States’ calculations should
19 be disregarded because he was never legally married to Jane Polinder and, therefore, he
20 cannot be responsible for any taxes arising from community property. Gould, however,
21 is precluded from arguing that his marriage to Polinder was invalid. The validity of
22 Gould’s marriage to Polinder has previously been adjudicated by a Washington state

1 court, which held that Gould and Polinder’s marriage was valid. *See* Final Order, *In re*
2 *Marriage of Polinder & Gould*, No. 11-3-00145-8 (Wash. Super. Ct. Feb. 24, 2014), Ex.
3 58 (docket no. 177-70). This result accords with Washington’s recognition of marriages
4 as valid even absent a marriage license so long as the traditional solemnities of marriage
5 are observed. *See State v. Denton*, 97 Wn. App. 267, 270–73, 983 P.2d 693 (1999)
6 (concluding that the marriage of a couple who “not only lived together and held
7 themselves out as husband and wife for years, [but also] formally began their marriage
8 relationship with a religious ceremony in which they promised to take each other to be
9 husband and wife” was valid, and noting that there is “no authority for declaring a
10 marriage to be valid for some purposes but not for others”). Moreover, Gould
11 represented that he was married to Polinder both during his oral examination before the
12 IRS, Sworn Statement at 16:10–18, Ex. 49 (docket no. 177-61), and during his deposition
13 in relation to this case, Gould Dep. at 17:13–18; 75:22–24, 109:21–110:25 (docket
14 no. 177-9). Indeed, Gould testified that, although he and Polinder signed a certificate of
15 marriage, they did not obtain a marriage license from the state of Washington “[b]ecause
16 [they] didn’t want the state to be a third party to [their] marriage.” *Id.* at 102:16–103:6.
17 Gould will not be allowed to recant these multiple statements made under oath at such a
18 late date in this litigation. The United States properly included taxes on community
19 property in its calculations of Gould’s tax liabilities.

20 Gould next argues that the United States improperly attributed to him the income
21 of Director of Excalibur. The thrust of Gould’s argument is that the United States failed
22 to respect Direct of Excalibur’s separate corporate identity. The United States Court of

1 Appeals for the Ninth Circuit has rejected a similar argument premised on similar facts to
2 this case. *See Gardner v. Comm’r*, 845 F.3d 971 (9th Cir. 2017).

3 In *Gardner*, the taxpayer-appellants, Elizabeth and Fredric Gardner, operated
4 Bethel Aram Ministries (“BAM”), ““an unincorporated association in Arizona organized
5 to be an ‘ecclesiastical church ministry,’”” with Elizabeth Gardner being BAM’s
6 registered corporation sole. *Id.* at 972–73. The taxpayer-appellants had “signed vows of
7 poverty declaring their intent to divest themselves from earnings or wages from BAM
8 and stating that BAM would provide for their needs as pastors of the church ministry,”
9 and subsequently transferred all of their assets, including title to their home, to BAM. *Id.*
10 at 973. BAM had no congregation from 2002–2004, the tax years at issue. *Id.* Instead,
11 “the Gardners traveled across the country offering their services in setting up
12 corporations sole and limited liability companies” for a “donation” to BAM. *Id.* After
13 the Gardners failed to file their 2002 through 2004 tax returns, and refused to cooperate
14 in an IRS audit, the IRS assessed their tax liabilities based on an analysis of BAM’s bank
15 records. *Id.* at 974. On appeal, the Gardners did not deny that they exercised complete
16 dominion and control over BAM and its financial accounts, but did argue that they should
17 not be liable for taxes because BAM was a separate entity. *Id.* at 976. Rejecting this
18 argument, the Ninth Circuit concluded that “as long as the Gardners have complete
19 control over the funds, it makes no practical difference whether the funds are titled in
20 their names or in BAM’s.” *Id.* at 977 (citations omitted).

21 Just as the Gardners exercised complete control over BAM’s funds, so too did
22 Gould exercise complete control over Director of Excalibur’s funds. Gould had signatory

1 authority over Director of Excalibur's bank accounts. *See* U.S. Bank Check, Ex. 22
2 (docket no. 177-34); Peoples Bank New Account Information, Ex. 28 (docket no. 177-
3 40). Those accounts were used by Gould to pay expenses for the Evergreen Way
4 properties in Brookline Properties' name, as well as the mortgage on those properties in
5 his own name. *See* PNC Evergreen Way Loan History, Ex. 20 (docket no. 177-32);
6 Checks Written from 2000–2004 at USA04842–44, Ex. 42 (docket no. 177-54).
7 Additionally, Gould deposited funds in Director of Excalibur accounts that were not
8 properly its due, *i.e.*, funds related to the Evergreen Way properties and personal gifts.
9 Itemized Deposits at USA07882, USA07884, USA07893 (“memo: ‘Happy
10 Anniversary’”), USA07894, Ex. 21 (docket no. 177-33). It is also undisputed that the
11 sale proceeds for 1323 St. Paul Street, titled in Director of Excalibur's name, were almost
12 immediately after deposit transferred from Director of Excalibur's bank account to
13 Polinder's Banco Cuscatlán account. Gould Dep. 69:11–70:8 (docket no. 177-9).
14 Indeed, Gould claimed income from the 1323 St. Paul Street sale on his late-filed returns.
15 Late Filed 1040s, Ex. 62 (docket no. 177-74 at 41).

16 To the extent Gould objects to items of income from the Evergreen Way
17 properties titled in Brookline Properties' name, this objection similarly fails. Gould
18 claimed income from these properties on his late-filed tax returns. *Id.* at 6, 16, 26, 38, 49.
19 And the proceeds from the sale of 6121 and 6125 Evergreen Way were deposited into
20 Director of Excalibur's account and then nearly immediately transferred to Polinder's
21 Banco Cuscatlán account. Settlement Statement at USA08966 (March 20, 2003,
22 disbursement), Ex. 33 (docket no. 177-45); 2003 Property Sales Checks at USA09442

(March 20, 2003, deposit), USA04855 (March 28, 2003, check to Polinder), Ex. 38 (docket no. 177-50). Moreover, Brookline Properties functioned as the nominee or alter ego of Gould. *See infra* n.6. Indeed, Patrick Shannon, nominal trustee of Brookline Properties, testified that all decisions about the Subject Property “had to go through David [Gould] and David’s the one that called the final ball.” Shannon Dep. at 52:6-11 (docket no. 177-12). Because Gould exercised complete control over both Director of Excalibur’s and Brookline Properties’ income, the United States validly attributes that income to Gould.

Gould’s final argument is that his late-filed returns supersede the United States’ assessments, making the United States’ assessments arbitrary. Gould advanced this argument in support of his motion for summary judgment.⁵ *See* Mot. at 2–3 (docket no. 67). The Court previously rejected this argument, *see* Minute Order (docket no. 82), and declines to re-adjudicate the issue.

D. The Federal Tax Liens are Foreclosable Against the Subject Property

The United States’ tax liens are foreclosable against the Subject Property so long as Gould has a valid state law property interest in the property. *See United States v. Craft*, 535 U.S. 274, 283 (2002) (noting that 26 U.S.C. § 6321 is intended to “reach every interest in property that a taxpayer might have”); *United States v. Nat’l Bank of Com.*,

⁵ In his response to the United States’ motion for summary judgment, Gould cites *Davis v. United States*, 230 F.3d 1383, 2000 WL 194111 (Fed. Cir. Feb. 16, 2000), a case which he did not cite in his motion for summary judgment, *see* Mot. (docket no. 67). *Davis* does not help Gould. The *Davis* court analyzed when a tax return is considered received by the IRS. *See Davis*, 2000 WL 194111, at *2–3. *Davis* does not, however, discuss whether late filed tax returns supersede tax assessments determined by the IRS pursuant 26 U.S.C. § 6020, and is not relevant to this case.

1 472 U.S. 713, 722–23 (1985) (discussing how state law defines property interests and
2 federal law defines federal tax consequences on those property interests). The United
3 States argues that Gould has a property interest in the Subject Property, and therefore that
4 the outstanding tax liens are foreclosable against the property, because Brookline
5 Properties is an alter ego of Gould, because Brookline Properties holds the property as a
6 nominee for Gould, and/or because the transfer of the property to Brookline Properties
7 was fraudulent. Gould challenges only the United States’ fraudulent transfer theory,
8 asserting two arguments for why the United States cannot prove the transfer was
9 fraudulent:⁶ (1) this case was brought outside the Washington Uniform Fraudulent
10 Transfer Act’s⁷ statute of limitations, and (2) his declaration establishes that he lacked
11 fraudulent intent. Neither argument has merit.

12 Gould previously raised the statute of limitations argument in his motion to
13 dismiss, docket nos. 28 & 30, and his motion for reconsideration, docket nos. 49 & 49-1.
14 The Court rejected this argument in relation to both of Gould’s motions, *see* Minute
15 Order (docket no. 36); Minute Order (docket no. 50), and does so again for the reasons
16 previously articulated.

18 ⁶ Gould challenges the United States’ theory that he has an interest in the Subject Property because the
19 1998 transfer was fraudulent. Gould does not, however, raise any challenge to the United States’
20 nominee or alter ego theories. The Court finds that, in the alternative to the 1998 transfer being
21 fraudulent, Gould has a foreclosable interest in the Subject Property because, for the reasons outlined in
22 the United States’ motion, *see* docket no. 177 at 16–18, Brookline Properties was Gould’s nominee or
23 alter ego.

⁷ Gould refers to the Uniform Voidable Transactions Act, but that Act applies only to transfers after
July 23, 2017. RCW 19.40.905; *see also United States v. Weathers*, 532 F. Supp. 3d 1030, 1047 n.8.
(W.D. Wash. 2021).

1 Under Washington law, a transfer made prior to 2017 and “with actual intent to
2 hinder, delay, or defraud any creditor of the debtor” may be set aside as fraudulent,
3 RCW 19.40.041(1)(a), if there is “clear and satisfactory proof” of fraudulent intent,
4 *United States v. Allahyari*, 980 F.3d 684, 692 (9th Cir. 2020). The United States has
5 presented clear and satisfactory proof that Gould’s transfer of the Subject Property to
6 Brookline Properties was done with intent to hinder, delay, or defraud the United States.

7 When determining fraudulent intent, courts should consider the factors outlined in
8 RCW 19.40.041(2), several of which are present with Gould’s transfer of the Evergreen
9 Way property to Brookline Properties. Brookline Properties was controlled by Gould,
10 *see supra*, meaning the transfer of the Subject Property was to an “insider,”
11 RCW 19.40.041(2)(a). Additionally, Gould retained possession and control of the
12 property after the transfer, RCW 19.40.041(2)(b), because he controlled Brookline
13 Properties, and because the Subject Property was his personal residence and he made all
14 decisions regarding the property. The transfer was also for inadequate consideration.
15 RCW 19.40.041(2)(h). Gould contends that the “certificate” he received from Brookline
16 Properties constitutes adequate consideration for the transfer. Gould admits, however,
17 that the transfer of the property was irrevocable. Gould Dep. at 32:11–14 (docket
18 no. 177-9). A nonfungible certificate which cannot be redeemed for the property and
19 cannot be sold to anyone else is just a certificate, *see id.* at 33:8–9, and is not adequate
20 consideration for the transfer of real property. Further supporting the lack of adequate
21 consideration for the transfer is the fact that Gould remained personally liable for the
22

1 mortgage after the transfer of his property. *See* PNC Evergreen Way Loan History, Ex.
2 20 (docket no. 177-32).

3 In attempt to counter the United States' evidence of fraudulent intent, Gould
4 asserts in his declaration that he did not transfer the Subject Property with the intent to
5 hinder, delay, or defraud any creditor. Gould's self-serving declaration that he did not
6 intend to defraud any creditor does not create a genuine issue of material fact. *See FTC*,
7 104 F.3d at 1171; *see also In re Wicklund*, No. C15-0817, 2016 WL 5339412, at *7
8 (W.D. Wash. Mar. 28, 2016) (noting that courts have granted summary judgment on
9 intent "when substantial circumstantial evidence of intent is met with only 'self-serving,
10 unsubstantiated statements.'" (citations omitted)). The 1998 transfer of the Evergreen
11 Way property to Brookline Properties was fraudulent and, therefore, Gould has a
12 foreclosable property interest in the Subject Property.

13 By virtue of the unpaid federal tax assessments against Gould, the United States
14 has liens against all property and rights to property of David Gould under 26 U.S.C.
15 § 6321. These liens are valid and attach to the Subject Property. The United States' tax
16 liens against Gould are foreclosed against the Subject Property, and the Court will
17 appoint a real-estate agent or broker to act as receiver to sell the Subject Property. The
18 Court retains jurisdiction to enforce the sale of the Subject Property.

19 **E. Stipulated Motion for Entry of Judgment Against Jane Polinder**

20 Also pending before the Court is the United States and Polinder's stipulated
21 motion, docket no. 176, for entry of judgment against Jane Polinder. That motion is
22 GRANTED and, pursuant to the stipulated motion, Jane Polinder is liable to the United

1 States for federal tax and penalty assessments against her totaling \$91,271.06 as of
2 February 14, 2024, plus statutory interest and other statutory additions for tax years 2000,
3 2001, 2002, 2003, and 2004 accruing from March 15, 2024. By virtue of the unpaid
4 federal tax assessments against Polinder, the United States has liens against all property
5 and rights to property of Jane Polinder under 26 U.S.C. § 6321. These liens are valid and
6 attach to the property located at 6109 Evergreen Way, Ferndale, Washington 98248 (“the
7 Subject Property”) more particularly described as:

8 Lot 1, as delineated on Baycor Short Plat, according to the plat thereof,
9 recorded August 22, 2005, under the Auditor’s File No. 2050804879,
10 records of Whatcom County, Washington; situate in Whatcom County,
Washington; Assessor’s Tax Parcel No. 3902180470220000.

11 The United States’ tax liens against Polinder are foreclosed against the Subject Property
12 and the Court will appoint a real-estate agent or broker to act as receiver to sell the
13 Subject Property. The Court retains jurisdiction to enforce the settlement agreement
14 between the United States and Polinder.

15 **Conclusion**

16 For the foregoing reasons, the Court ORDERS:

17 (1) The United States’ motion for summary judgment against David Gould and
18 for default judgment against Brookline Properties, Financial Concepts, Ltd., and Goldstar
19 Enterprises, Inc., docket no. 177, is GRANTED.

20 (2) The United States is entitled to entry of judgment in its favor and against
21 David Gould in the amount of \$212,109.93, plus other statutory additions.

1 (3) The United States and Jane Polinder's stipulated motion for entry of
2 judgment against Jane Polinder in the amount of \$91,271.06, plus other statutory
3 additions, docket no. 176, is GRANTED.

4 (4) As a result of default judgment being granted against Brookline Properties,
5 Financial Concepts, Ltd., and Goldstar Enterprises, Inc.:

6 (a) any interest held by Brookline Properties in the Subject Property,
7 more properly described as:

8 Lot 1, as delineated on Baycor Short Plat, according to the
9 plat thereof, recorded August 22, 2005, under the Auditor's
10 File No. 2050804879, records of Whatcom County,
Washington; situate in Whatcom County, Washington;
Assessor's Tax Parcel No. 3902180470220000

11 is hereby extinguished;

12 (b) Financial Concepts, Ltd.'s "Affidavit and Memorandum of Security
13 Agreement" and "Affidavit of Obligation," *see* Ex. 51 (docket no.
14 177-63), recorded on May 1, 2009, against:

15 Lot 1 BAYCOR SHORT PLAT AS RECORDED UNDER
16 AUDITOR'S FILE NUMBER 2050804879 MORE COMMONLY
KNOWN AS 6109 EVERGREEN WAY, FERNDAL, WA,
WASHINGTON 98248

17 and recorded at Auditor's File Number 2090500044 (Affidavit and
18 Memorandum of Security Agreement") and Auditor's File
19 Number 2090500045 ("Affidavit of Obligation") are hereby void and
20 unenforceable;
21
22

(c) any interest held by Goldstar Enterprises, Inc. in the Subject

Property, more properly described as:

Lot 1, as delineated on Baycor Short Plat, according to the plat thereof, recorded August 22, 2005, under the Auditor's File No. 2050804879, records of Whatcom County, Washington; situate in Whatcom County, Washington; Assessor's Tax Parcel No. 3902180470220000

is hereby extinguished.

(5) By virtue of the unpaid federal tax assessments against David Gould and Jane Polinder, the United States has liens against all property and rights to property of David Gould and Jane Polinder under 26 U.S.C. § 6321. These liens are valid and attach to the property located at 6109 Evergreen Way, Ferndale, Washington 98248 more particularly described as:

Lot 1, as delineated on Baycor Short Plat, according to the plat thereof, recorded August 22, 2005, under the Auditor's File No. 2050804879, records of Whatcom County, Washington; situate in Whatcom County, Washington; Assessor's Tax Parcel No. 3902180470220000.

The United States' tax liens against David Gould and Jane Polinder are foreclosed against the Subject Property.

(6) The parties are ORDERED to submit to the Court, no later than September 9, 2024, a list of three proposed qualified real-estate agents or brokers to act as receiver to sell the Subject Property. Proceeds from the sale of the Subject Property are to be disbursed as follows:

- First, to the costs of the sale, including the compensation of the court-appointed receiver.

- Second, to the Whatcom County Treasurer for any unpaid property taxes pursuant to the stipulation between the United States and the Whatcom County Treasurer. *See* docket no. 21.
- Third, to the United States' federal tax liens against Jane Polinder.
- Fourth, to the United States' federal tax liens against David Gould.
- Fifth, to DSHS's lien for unpaid child support owed to Jane Polinder pursuant to the stipulation between the United States and DSHS. *See* docket no. 126.
- Finally, any funds remaining after the foregoing disbursements have been made shall be deposited into the Registry of the Court, upon which the Court will entertain motions concerning the disposition of such funds.

The Subject Property shall not be sold before September 30, 2024.

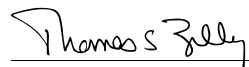
(7) Attached as Exhibit A to this Order is the Court's proposed order appointing a receiver to sell the Subject Property. The parties are DIRECTED to file any objections to the Court's proposed receiver order no later than August 16, 2024.

(8) Attached as Exhibit B to this Order is the Court's proposed judgment. The parties are DIRECTED to file any objections to the Court's proposed judgment no later than August 16, 2024.

(9) The Clerk is directed to send a copy of this Order to all counsel of record.

IT IS SO ORDERED.

Dated this 23rd day of July, 2024.



Thomas S. Zilly
United States District Judge

EXHIBIT A

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID GOULD, et al.,

Defendants.

C16-1041 TSZ

[PROPOSED]
ORDER APPOINTING
RECEIVER

THIS MATTER comes before the Court on the United States and Defendant Jane Polinder's request for the appointment of a receiver to sell the real property located at 6109 Evergreen Way, Ferndale, Washington, 98248 (the "Subject Property").¹ Pursuant to 26 U.S.C. § 7402(a), the Court ORDERS that:

1. [NAME] of [REALTY AGENCY/BROKERAGE], whose address is [ADDRESS] is appointed as a receiver² ("Receiver") for the Subject Property for the purpose of effectuating the sale of the Subject Property to satisfy the outstanding federal tax liens against defendants David Gould and Jane Polinder. The Receiver shall have the

¹ 6109 Evergreen Way, Ferndale, Washington, 98248 is more particularly described as:

Lot 1, as delineated on Baycor Short Plat, according to the plat thereof, recorded August 22, 2005, under the Auditor's File No. 2050804879, records of Whatcom County, Washington; situate in Whatcom County, Washington; Assessor's Tax Parcel No. 3902180470220000.

² Because the Receiver is being appointed in a post-judgment context, the standard that governs appointment of a receiver under Federal Rule of Civil Procedure 66 to protect a party's interest in property during the pendency of litigation does not apply to this action, nor does the Court need to make a jeopardy finding in this case. *See United States v. Morgan*, No. 3:18-cv-1647, 2021 WL 3421708, at *6 n.44 (D. Conn. Aug. 15, 2021) (collecting cases).

1 authority to arrange for the sale of the Subject Property through an appropriate purchase
2 agreement, in any manner approved by the United States.³

3 2. The Receiver shall have all of the rights and powers necessary to fulfill the
4 Receiver's obligations under this Order, specifically including, but not limited to, the
5 power to retain the services of a locksmith in order to gain access to the Subject Property.
6 The Receiver may also take any action reasonably necessary to protect and preserve the
7 value of the Subject Property prior to sale, and to put the Subject Property into saleable
8 condition, including making expenditures of funds that are first approved by the United
9 States for reasonable and necessary maintenance and minor improvements. Any funds
10 advanced by the Receiver, and previously approved by the United States, for any of the
11 purposes of protecting or preserving the value of the Subject Property shall be reimbursed
12 from the proceeds of the sale with priority over all liens or other claims unless paid from
13 rents or forfeited earnest money deposits. The Receiver shall be permitted to add a
14 lockbox to the Subject Property for other agents to show the Subject Property to
15 prospective buyers (at the Receiver's own expense). The Receiver is authorized to
16 advertise the Subject Property for sale in any manner determined by the Receiver's
17 experience and business judgment. The Receiver is authorized to create a video of the
18 interior as well as the exterior of the Subject Property for such purposes.

19
20 _____
21 ³ When seeking to coordinate with or obtain the approval of the United States, the Receiver shall contact
22 Lolita De Palma, Counsel for the United States, at 202-305-3664 or lolita.depalma@usdoj.gov.
23 Defendant Polinder's Counsel, Jason Harn, can be contacted at 206-223-0800 or
jharn@colvinhallettllaw.com.

1 3. The Receiver shall set an initial listing price for the Subject Property, which
2 shall not be less than \$546,010.⁴ The Subject Property shall not be listed or sold for an
3 amount less than \$546,010, unless otherwise authorized by the United States. In this
4 regard, the Receiver is authorized to use its business judgment to set a listing price or any
5 reductions in the listing price. If the Receiver proposes to sell the Subject Property for
6 less than the tax assessed value, the Receiver shall inform the parties and, within three
7 business days of being so informed, any party that objects to the Receiver's proposed sale
8 price may file with the Court an objection to the proposed price, stating the basis for any
9 objection and why the Court should not defer to the Receiver's business judgment. The
10 Court will then determine whether to approve of the sale price and may do so without a
11 hearing.

12 4. Proceeds from the sale of the Subject Property are to be disbursed as
13 follows:

- 14 - First, to the costs of the sale, including the compensation of the court-
15 appointed Receiver. The Receiver shall be entitled to the payment of a
16 standard real estate commission for its services and costs incurred
17 pursuant to this Order.

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22 ⁴ This is the tax assessed value of the Subject Property for 2023. *See*
https://property.whatcomcounty.us/propertyaccess/Property.aspx?cid=0&year=2023&prop_id=92856.

- Second, to the Whatcom County Treasurer for any unpaid property taxes pursuant to the stipulation between the United States and the Whatcom County Treasurer. *See* docket no. 21.
- Third, to the United States, for the amount of the federal tax liens against Jane Polinder.
- Fourth, to the United States, for the amount of the federal tax liens against David Gould.
- Fifth, to DSHS's lien for unpaid child support owed to Jane Polinder pursuant to the stipulation between the United States and DSHS. *See* docket no. 126.
- Finally, any funds remaining after the foregoing disbursements shall be deposited with the Clerk of the Court and distributed pursuant to further Court order.

The Subject Property shall not be sold before September 30, 2024.

5. Counsel for the United States and the various defendants do not represent the Receiver, but the Receiver may consult with counsel for the United States regarding the Receiver's responsibilities if necessary. The Receiver is not authorized to employ counsel but may apply to the Court for authority to do so. Counsel for the United States may assist the Receiver in drafting any purchase agreement or related escrow documents proposed and any final purchase agreement and related documents shall be provided to Counsel for the United States at least 72 hours before closing.

1 6. At closing, the purchase price may be used to pay closing costs customarily
2 borne by sellers, as well as all real property taxes allocable to the period prior to closing.

3 7. All persons occupying the Subject Property shall vacate the Subject
4 Property at a time to be agreed upon by both the United States and the Receiver, with
5 each occupant taking with them his or her personal property, but leaving all
6 improvements and fixtures. If any person fails or refuses to vacate the Subject Property,
7 the United States shall seek an immediate court order authorizing the United States
8 Marshals Service to take all actions that are reasonably necessary to have those persons
9 removed. Any personal property remaining on the Subject Property after the agreed to
10 date to vacate shall be deemed forfeited and abandoned, and the Receiver is authorized to
11 dispose of the personal property in any manner it sees fit, including sale, in which case
12 the proceeds of the sale are to be applied first to the costs and expenses of sale and the
13 balance shall be held in escrow in a manner consistent with private sales pending
14 distribution pursuant to this Order.

15 8. Defendants Gould and Polinder shall take no action that might reduce the
16 value or marketability of the Subject Property nor cause or permit anyone else to do so.
17 Violation of this paragraph may be deemed a contempt of court.

18 9. The Receiver's compensation shall be from the proceeds of the sale of the
19 Subject Property in an amount not to exceed a normal and accustomed percentage of the
20 gross sale proceeds. The Receiver can agree to compensate a buyer's agent as
21 appropriate. If the Receiver or any other agent of the Receiver's company is also the
22 buyer's agent, then the Receiver's commission shall be limited to a percentage of the

1 gross sale proceeds to be submitted for approval by the United States. The Receiver shall
2 also be reimbursed for its reasonable and necessary expenditures to protect and preserve
3 the value of the Subject Property that were first approved by the United States in writing.

4 10. The Receiver shall submit progress reports to the Court and the parties
5 every ninety (90) days from the date of this Order until the Receiver is discharged.

EXHIBIT B

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID GOULD, et al.,

Defendants.

[PROPOSED]

JUDGMENT IN A CIVIL CASE

CASE NO. C16-1041 TSZ

Jury Verdict. This action came before the court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

X **Decision by Court.** This action came on for consideration before the court. The issues have been considered and a decision has been rendered. **THE COURT HAS ORDERED THAT**

The Court having granted summary judgment against David Gould for unpaid federal income tax liabilities and civil penalties for 2000, 2001, 2002, 2003, and 2004, in the amount of \$212,109.93 as of February 14, 2024, plus statutory interest pursuant to 28 U.S.C. § 1961(c) and 26 U.S.C. §§ 6601, 6621 and other statutory additions running from March 15, 2024, until paid in full; having granted stipulated judgment against Jane Polinder for unpaid federal income tax liabilities and civil penalties for 2000, 2001, 2002, 2003, and 2004, in the amount of \$91,271.06 as of February 14, 2024, plus statutory interest pursuant to 28 U.S.C. § 1961(c) and 26 U.S.C. §§ 6601, 6621 and other statutory additions running from March 15, 2024, until paid in full; and having granted default judgment against Brookline Properties, Financial Concepts, Ltd., and Goldstar Enterprises, Inc.; now therefore, judgment is hereby ENTERED against David Gould in the amount \$212,109.93, plus other statutory additions, and against Jane Polinder in the amount of \$91,271.06, plus other statutory additions.

The United States holds valid federal tax liens against all property and rights to property belonging to David Gould and Jane Polinder, including, but not limited to, their rights to the Subject Property of this action, commonly referred to as 6109 Evergreen Way, Ferndale, Washington 98248 ("Subject Property") and legally described as:

Lot 1, as delineated on Baycor Short Plat, according to the plat thereof, recorded August 22, 2005, under the Auditor's File No. 2050804879,

1 records of Whatcom County, Washington; situate in Whatcom County,
2 Washington; Assessor's Tax Parcel No. 3902180470220000.

3 In light of the default judgments against them, any interests held by Brookline Properties,
4 Financial Concepts, Ltd., and Goldstar Enterprises, Inc. in the Subject Property are
5 hereby EXTINGUISHED. This judgment does not affect any rights Goldstar Enterprises,
6 Inc. or its successors or assigns might have in 6103 Evergreen Way and 2450 Thornton
7 Road, Ferndale, Washington 98248.

8 The United States' federal tax liens against the Subject Property are foreclosed, and the
9 Subject Property shall be sold pursuant to 26 U.S.C. § 7403 and 28 U.S.C. § 2001, with
10 the proceeds to be disbursed as follows:

- 11 - First, to the costs of the sale, including the compensation of the court-
12 appointed receiver.
- 13 - Second, to the Whatcom County Treasurer for any unpaid property taxes
14 pursuant to the stipulation between the United States and the Whatcom County
15 Treasurer. *See* docket no. 21.
- 16 - Third, to the United States' federal tax liens against Jane Polinder.
- 17 - Fourth, to the United States' federal tax liens against David Gould.
- 18 - Fifth, to the DSHS's lien for unpaid child support owed to Jane Polinder
19 pursuant to the stipulation between the United States and DSHS. *See* docket
20 no. 126.
- 21 - Finally, any funds remaining shall be deposited into the Registry of the Court.

22 The Subject Property shall not be sold before September 30, 2024.